

TRUSTEE COUNCIL RESOLUTION 03-1
ADOPTED July 1, 2003


MONTROSE TRUSTEE COUNCIL RESOLUTION REGARDING
Reimbursement of Final Damage Assessment Costs

1. The National Oceanic and Atmospheric Administration; the State of California acting through the State Lands Commission, the Department of Parks & Recreation and the Department of Fish & Game; and the Department of the Interior, acting through the U.S. Fish & Wildlife Service and the National Park Service are the trustees for natural resources (Trustees) injured by releases of DDT and PCBs into the Southern California Bight.
2. Sums recovered in the civil action *United States, et al. v. Montrose Chemical Corp., et al.*, No. CV 90-3122-R (C.D. Cal. 1990) are being held in a registry account administered by the U.S. District Court for the Central District of California.
3. The Trustees have entered into a memorandum of agreement (MOA), as modified, that establishes a Trustee Council (Montrose Trustee Council) composed of one voting member for each trustee agency. Under the terms of that MOA, the Montrose Trustee Council is authorized to disburse funds for activities related to damage assessment and restoration.
4. On May 23, 2001, the Trustees adopted guidelines for the reimbursement of damage assessment costs. These procedures provide that the total of all assessment costs will be capped at \$35,000,000. The guidelines further provide that reimbursement of assessment costs will be prorated among the Trustee agencies if assessment costs exceed \$35,000,000. The Trustee Council formed a committee to review and approve agency cost documentation packages.
5. The cost documentation review committee has approved a final total of \$36,370,383 in assessment costs, which exceeds the \$35,000,000 cap. In accordance with the approved guidelines, the Trustees have prorated the assessment costs of the National Oceanic and Atmospheric Administration, the Department of the Interior, and the California Department of Fish and Game to stay within the \$35,000,000 cap (see attached table 1 titled 'Prorated Damage Assessment Costs').
6. The Montrose Trustee Council has previously approved several requests for partial reimbursements of assessment costs. These partial reimbursements total \$8,681,330 (see attached table 2 titled Summary of Prior Reimbursements of Damage Assessment Costs'). A total of \$26,318,670 in prorated assessment costs has not been reimbursed.
7. The Montrose Trustee Council resolves unanimously to authorize disbursement of \$3,818,670 from the registry account as indicated in attached table 3 titled 'Schedule for Disbursement of Remaining Assessment Costs.' The remaining

balance of \$22,500,000 will be disbursed as authorized by Montrose Trustee Council Resolution 03-1 (see attached). This action constitutes final reimbursement of damage assessment costs for the Montrose case.

8. The effective date of this resolution shall be the date on which the last Trustee signs this document.

CONCURRED in by the following who are the duly authorized Montrose Trustee Council Representatives:



William Conner
National Oceanic &
Atmospheric Administration

7/1/03

Date

Daniel Welsh
U.S. Fish & Wildlife Service

Date

Kate Faulkner
National Park Service

Date

Jonathan Clark
State Lands Commission

Date

MSRP Resolution 03-1
Page 2

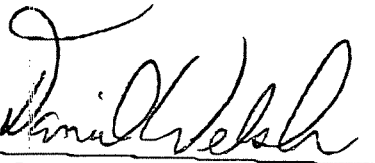
balance of \$22,500,000 will be disbursed as authorized by Montrose Trustee Council Resolution 03-1 (see attached). This action constitutes final reimbursement of damage assessment costs for the Montrose case.

8. The effective date of this resolution shall be the date on which the last Trustee signs this document.

CONCURRED in by the following who are the duly authorized Montrose Trustee Council Representatives:

William Conner
National Oceanic &
Atmospheric Administration

Date



Daniel Welsh
U.S. Fish & Wildlife Service

6/9/03

Date

Kate Faulkner
National Park Service

Date

Jonathan Clark
State Lands Commission

Date

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William Conner
National Oceanic &
Atmospheric Administration

Date

Daniel Welsh
U.S. Fish & Wildlife Service

Date

Kate Faulkner

Kate Faulkner
National Park Service

6/3/03

Date

Jonathan Clark
State Lands Commission

Date

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William Conner
National Oceanic &
Atmospheric Administration

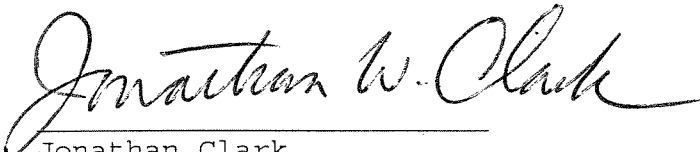
Date

Daniel Welsh
U.S. Fish & Wildlife Service

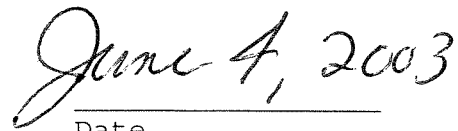
Date

Kate Faulkner
National Park Service

Date



Jonathan Clark
State Lands Commission



Date

Suzanne Goode
Suzanne Goode
Department of Parks &
Recreation


6-23-03
Date

Patricia Velez
Patricia Velez
Department of Fish & Game

Date

Suzanne Goode
Department of Parks &
Recreation

Date



Patricia Velez
Department of Fish & Game

6-10-03

Date

Table 1

PRORATED DAMAGE ASSESSMENT COSTS

| Agency | Documented Costs | Multiplier | Prorated Costs |
|---------------|-------------------------|-------------------|-----------------------|
| NOAA | \$31,002,737 | 0.96230352732941 | \$29,834,043 |
| CDFG | \$ 598,251 | 0.96230352732941 | \$ 575,699 |
| CSLC | \$ 17,300 | 1 | \$ 17,300 |
| DOI | \$ 4,752,095 | 0.96230352732941 | \$ 4,572,958 |
| | \$36,370,383 | | \$35,000,000 |

Table 2

**SUMMARY OF PRIOR REIMBURSEMENTS OF DAMAGE
ASSESSMENT COSTS**

| Agency | Approved Reimbursement (Prorated) | Prior Reimbursement | Balance |
|---------------|--|--|---------------------|
| NOAA | \$29,834,042 | 01/1999 \$1,000,000 10/2002 \$5,000,000 | \$23,834,043 |
| CDFG | \$ 575,699 | 06/1994 \$ 200,000 10/2002 \$ 353,685 | \$ 22,014 |
| CSLC | \$ 17,300 | 10/2002 \$ 17,300 | \$ 0 |
| DOI | \$ 4,572,958 | 01/1993 \$ 533,000 06/1994 \$ 667,000 10/2002 \$ 910,345 | \$ 2,462,613 |
| | | \$ 8,681,330 | \$26,318,670 |

Table 3

SCHEDULE FOR DISBURSEMENT OF REMAINING ASSESSMENT COSTS

| Agency | Disbursement Schedule | | Disbursement Total |
|--------|---|---|----------------------|
| NOAA | Immediate 06/2003 \$1,334,043 | Deferred* 2003 \$4,000,000 2004 \$4,000,000 2005 \$4,000,000 2006 \$4,000,000 2007 \$4,000,000 2008 \$2,500,000 | \$23,834,043 |
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| | | | |
| | | | |
| CDFG | 06/2003 \$22,014 | | \$ 22,014 |
| DOI | 06/2003 \$2,462,613 | | \$ 2,462,613 |
| | \$3,818,670 | | \$ 26,318,670 |

* To be disbursed as specified in Montrose Trustee Council Resolution 01-3

TRUSTEE COUNCIL RESOLUTION 01-3
ADOPTED MAY 23, 2001

MONTROSE TRUSTEE COUNCIL
RESOLUTION REGARDING REIMBURSEMENT OF
PAST DAMAGE ASSESSMENT COSTS FOR
THE NATIONAL OCEANIC & ATMOSPHERIC ADMINISTRATION


1. The National Oceanic and Atmospheric Administration; the State of California acting through the State Lands Commission, the Department of Parks & Recreation and the Department of Fish and Game; and the Department of the Interior, acting through the U.S. Fish & Wildlife Service and the U.S. Park Service are the natural resource trustees (Trustees) for resources injured by releases of DDT and PCBs into the Southern California Bight.
2. Sums recovered in the civil action *United States, et al. v. Montrose Chemical Corp., et al.*, No. CV 90-3122-R (C.D. Cal. 1990) are being held in several accounts including the registry account administered by the U.S. District Court for the Central District of California.
3. The Trustees have entered into a memorandum of agreement (MOA), as modified, that establishes a Trustee Council (Montrose Trustee Council) composed of one voting member for each trustee agency. Under the terms of that MOA, the Montrose Trustee Council is authorized to disburse funds for reimbursement of costs related to damage assessment activities.
4. To help fund damage assessment activities related to the DDT and PCB contamination of the Southern California Bight, NOAA established a reimbursable account.
5. The Montrose Trustee Council acknowledges that NOAA has:
 - a) expended at least \$26.5 million reimbursable account costs) from that account; and
 - b) expected repayment of reimbursable account past costs successful conclusion of the litigation.
6. The Montrose Trustee Council also recognizes that NOAA has incurred other past damage assessment costs, including additional reimbursable account past costs, which are not addressed by this resolution.
7. The Montrose Trustee Council resolves unanimously to authorize the following payment schedule for \$26.5 million of

NOAA's reimbursable account past costs:


- a) \$4 million on January 2, 2002;
- b) \$4 million on January 2, 2003;
- c) \$4 million on January 2, 2004;
- d) \$4 million on January 2, 2005;
- e) \$4 million on January 2, 2006;
- f) \$4 million on January 2, 2007;
- g) \$2.5 million on January 2, 2008

8. The effective date of this resolution shall be the date on which the last Trustee signs this document.

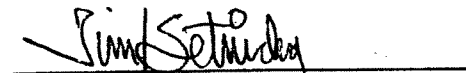
CONCURRED in by the following who are the duly authorized Montrose Trustee Council Representatives:


William Conner
National Oceanic &
Atmospheric Administration

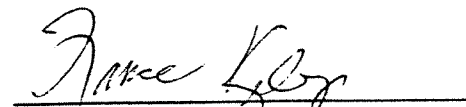
5/23/01
Date


Daniel Welsh
U.S. Fish & Wildlife Service

5/23/01
Date


Timothy J. Setnicka
National Park Service

5/23/01
Date


Lance Kiley
State Lands Commission

5-23-01
Date

Suzanne Goode

Suzanne Goode
Department of Parks &
Recreation

5-23-01

Date

Patricia Velez

Patricia Velez
Department of Fish & Game

5-23-01

Date